

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CLARENCE WALKER, JR.,

Plaintiff,

v.

CAROLYN W. COLVIN,

Defendant.

No. C 13-4734 PJH

**ORDER TAKING MOTIONS
FOR SUMMARY JUDGMENT
UNDER SUBMISSION**

Plaintiff Clarence Walker, Jr. has filed a motion for summary judgment on his complaint seeking judicial review of the final decision of defendant, the Acting Commissioner of the Social Security Administration, finding him not disabled. Pursuant to Civil L.R. 16-5 and the procedural order for social security review actions, entered October 10, 2013, after plaintiff files a motion for summary judgment, defendant must serve and file any opposition or counter-motion within 28 days of service of plaintiff's motion. Plaintiff may serve and file a reply within 14 days thereafter.


On May 13, 2014, counsel for defendant filed a counter-motion for summary judgment and opposition to plaintiff's motion for summary judgment. Doc. no. 18. On May 14, 2014, the court issued a clerk's notice indicating that defendant did not use the correct docket event code and instructed defendant to re-post the counter-motion for summary judgment as a MOTION within 24 hours of the clerk's notice. Defendant did not timely file a correction to the CM/ECF entry. Nevertheless, plaintiff timely filed a reply to defendant's opposition and counter-motion on May 27, 2014.

On May 28, 2014, defendant re-posted the counter-motion and opposition to plaintiff's motion with the correct MOTION event code, two weeks after the clerk's notice re deficiency was issued. Doc. no. 21. In the interest of justice and to avoid undue delay, the court deems that defendant's counter-motion for summary judgment, filed May 13, 2014, was properly docketed as a MOTION. The motions for summary judgment are fully briefed

1 and hereby deemed submitted for decision without oral argument pursuant to Civil L.R. 16-
2 5. Any additional briefing deadlines are hereby terminated. The court will issue a written
3 decision on the motions in due course.

4 **IT IS SO ORDERED.**

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6 Dated: May 28, 2014

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9 PHYLLIS J. HAMILTON
10 United States District Judge
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